

SENATE BILL NO. 467

INTRODUCED BY J. TREBAS, L. BREWSTER

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS REGARDING LOCAL REGULATION OF SHORT-TERM RENTALS; PROHIBITING COUNTY OR MUNICIPAL PLANNING ENTITIES FROM ADOPTING OR ENFORCING REGULATIONS THAT WOULD PROHIBIT OR RESTRICT THE RENTAL PERIODS FOR SHORT-TERM RENTALS; PROHIBITING A LOCAL GOVERNMENT UNIT FROM PROHIBITING SHORT-TERM RENTALS OF RESIDENTIAL PROPERTY; AMENDING SECTION 7-1-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Short-term rentals allowed.** (1) A short-term rental is a residential use of property.

(2) A county planning and zoning commission may not adopt or enforce any regulation, restriction, resolution, or ordinance that would prohibit short-term rentals, have the effect of prohibiting short-term rentals, or regulate the number, duration, or frequency of rental periods for short-term rentals.

(3) As used in this section, "short-term rental" has the meaning provided in 15-68-101.

NEW SECTION. **Section 2. Short-term rentals allowed.** (1) A short-term rental is a residential use of property.

(2) A board of county commissioners may not adopt or enforce any regulation, restriction, resolution, or ordinance that would prohibit short-term rentals, have the effect of prohibiting short-term rentals, or regulate the number, duration, or frequency of rental periods for short-term rentals.

(3) As used in this section, "short-term rental" has the meaning provided in 15-68-101.

NEW SECTION. **Section 3. Short-term rentals allowed.** (1) A short-term rental is a residential use of property.

1 (2) A city or town council or other legislative body of a municipality may not adopt or enforce any
 2 regulation, restriction, resolution, or ordinance that would prohibit short-term rentals, have the effect of
 3 prohibiting short-term rentals, or regulate the number, duration, or frequency of rental periods for short-term
 4 rentals.

5 (3) As used in this section, "short-term rental" has the meaning provided in 15-68-101.

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7 **Section 4.** Section 7-1-111, MCA, is amended to read:

8 **"7-1-111. Powers denied.** A local government unit with self-government powers is prohibited from
 9 exercising the following:

10 (1) any power that applies to or affects any private or civil relationship, except as an incident to the
 11 exercise of an independent self-government power;

12 (2) any power that applies to or affects the provisions of 7-33-4128 or Title 39, except that subject
 13 to those provisions, it may exercise any power of a public employer with regard to its employees;

14 (3) any power that applies to or affects the public school system, except that a local unit may
 15 impose an assessment reasonably related to the cost of any service or special benefit provided by the unit and
 16 shall exercise any power that it is required by law to exercise regarding the public school system;

17 (4) any power that prohibits the grant or denial of a certificate of compliance or a certificate of
 18 public convenience and necessity pursuant to Title 69, chapter 12;

19 (5) any power that establishes a rate or price otherwise determined by a state agency;

20 (6) any power that applies to or affects any determination of the department of environmental
 21 quality with regard to any mining plan, permit, or contract;

22 (7) any power that applies to or affects any determination by the department of environmental
 23 quality with regard to a certificate of compliance;

24 (8) any power that defines as an offense conduct made criminal by state statute, that defines an
 25 offense as a felony, or that fixes the penalty or sentence for a misdemeanor in excess of a fine of \$500, 6
 26 months' imprisonment, or both, except as specifically authorized by statute;

27 (9) any power that applies to or affects the right to keep or bear arms;

28 (10) any power that applies to or affects a public employee's pension or retirement rights as

1 established by state law, except that a local government may establish additional pension or retirement
2 systems;

3 (11) any power that applies to or affects the standards of professional or occupational competence
4 established pursuant to Title 37 as prerequisites to the carrying on of a profession or occupation;

5 (12) except as provided in 7-3-1105, 7-3-1222, 7-21-3214, or 7-31-4110, any power that applies to
6 or affects Title 75, chapter 7, part 1, or Title 87;

7 (13) any power that applies to or affects landlords, as defined in 70-24-103, when that power is
8 intended to license landlords or to regulate their activities with regard to tenants beyond what is provided in Title
9 70, chapters 24 and 25. This subsection is not intended to restrict a local government's ability to require
10 landlords to comply with ordinances or provisions that are applicable to all other businesses or residences
11 within the local government's jurisdiction.

12 (14) subject to 7-32-4304, any power to enact ordinances prohibiting or penalizing vagrancy;

13 (15) subject to 80-10-110, any power to regulate the registration, packaging, labeling, sale, storage,
14 distribution, use, or application of commercial fertilizers or soil amendments, except that a local government
15 may enter into a cooperative agreement with the department of agriculture concerning the use and application
16 of commercial fertilizers or soil amendments. This subsection is not intended to prevent or restrict a local
17 government from adopting or implementing zoning regulations or fire codes governing the physical location or
18 siting of fertilizer manufacturing, storage, and sales facilities.

19 (16) subject to 80-5-136(10), any power to regulate the cultivation, harvesting, production,
20 processing, sale, storage, transportation, distribution, possession, use, and planting of agricultural seeds or
21 vegetable seeds as defined in 80-5-120. This subsection is not intended to prevent or restrict a local
22 government from adopting or implementing zoning regulations or building codes governing the physical location
23 or siting of agricultural or vegetable seed production, processing, storage, sales, marketing, transportation, or
24 distribution facilities.

25 (17) any power that prohibits the operation of a mobile amateur radio station from a motor vehicle,
26 including while the vehicle is in motion, that is operated by a person who holds an unrevoked and unexpired
27 official amateur radio station license and operator's license, "technician" or higher class, issued by the federal
28 communications commission of the United States;

1 (18) subject to 76-2-240 and 76-2-340, any power that prevents the erection of an amateur radio
 2 antenna at heights and dimensions sufficient to accommodate amateur radio service communications by a
 3 person who holds an unrevoked and unexpired official amateur radio station license and operator's license,
 4 "technician" or higher class, issued by the federal communications commission of the United States;

5 (19) any power to require a fee and a permit for the movement of a vehicle, combination of vehicles,
 6 load, object, or other thing of a size exceeding the maximum specified in 61-10-101 through 61-10-104 on a
 7 highway that is under the jurisdiction of an entity other than the local government unit;

8 (20) any power to enact an ordinance governing the private use of an unmanned aerial vehicle in
 9 relation to a wildfire;

10 (21) any power as prohibited in 7-1-121(2) affecting, applying to, or regulating the use, disposition,
 11 sale, prohibitions, fees, charges, or taxes on auxiliary containers, as defined in 7-1-121(5);

12 (22) any power that provides for fees, taxation, or penalties based on carbon or carbon use in
 13 accordance with 7-1-116;

14 (23) any power to require an employer, other than the local government unit itself, to provide an
 15 employee or class of employees with a wage or employment benefit that is not required by state or federal law;

16 (24) any power to enact an ordinance prohibited in 7-5-103 or a resolution prohibited in 7-5-121 and
 17 any power to bring a retributive action against a private business owner as prohibited in 7-5-103(2)(d)(iv) and 7-
 18 5-121(2)(c)(iv); or

19 (25) any power to prohibit the sale of alternative nicotine products or vapor products as provided in
 20 16-11-313(1); or

21 (26) any power to prohibit short-term rentals, as defined in 15-68-101, of residential property."

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23 NEW SECTION. Section 5. Codification instruction. (1) [Section 1] is intended to be codified as an
 24 integral part of Title 76, chapter 2, part 1, and the provisions of Title 76, chapter 2, part 1, apply to [section 1].

25 (2) [Section 2] is intended to be codified as an integral part of Title 76, chapter 2, part 2, and the
 26 provisions of Title 76, chapter 2, part 2, apply to [section 2].

27 (3) [Section 3] is intended to be codified as an integral part of Title 76, chapter 2, part 3, and the
 28 provisions of Title 76, chapter 2, part 3, apply to [section 3].

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2 NEW SECTION. Section 6. Effective date. [This act] is effective on passage and approval.

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4 NEW SECTION. Section 7. Applicability. [This act] applies to any local regulation, restriction,
5 resolution, or ordinance adopted on or after [the effective date of this act].

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